

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of the Connecticut Department of)	CC Docket No. 99-200
Public Utility Control for Authority to)	NSD File No. L-02-03
Implement a Transitional Service)	
Technology-Specific Service Overlay)	

To: Wireline Competition Bureau

OPPOSITION OF VERIZON WIRELESS

Verizon Wireless hereby opposes the Connecticut Department of Public Utility Control's ("DPUC") request for authority to implement a technology-specific overlay ("TSO").¹

The DPUC seeks to open additional NPAs² in Connecticut and segregate wireless carriers and some (yet to be determined) wireline services in these NPAs on a going-forward basis, for the purpose of temporarily delaying the need to offer numbers out of new NPAs to "traditional" wireline customers.³ The DPUC first attempted to justify this request in a "Supplemental Petition," which, as Verizon Wireless and other parties pointed out, failed to comply with the FCC's criteria for TSO petitions.⁴ On May 9, the

¹ See *Petition of the Connecticut Department of Public Utility Control for Authority to Conduct a Transitional Service Technology Specific Service Overlay Trial*, Supplemental Information, CC Docket No. 99-200 (May 9, 2002); See *Petition of the Connecticut Department of Public Utility Control for Authority to Conduct a Transitional Service Technology Specific Service Overlay Trial*, Supplemental Petition, CC Docket No. 99-200 (January 9, 2002).

² The Supplemental Petition referenced the need to implement two service specific overlays in Connecticut for each of the 203 and 860 NPAs. Supplemental Petition at 6. However, the Supplemental Information refers to "a Connecticut SO" throughout the document. Supplemental Information at 1-6. It is unclear what the DPUC is requesting, which adds to the inadequacy of the request.

³ Supplemental Petition at 4; Supplemental Information at 2.

DPUC filed its “Supplemental Information,” but it still fails to meet the requirements the FCC adopted. Moreover, given that wireless participation in number pooling in Connecticut is imminent, the time to consider a wireless TSO has passed.

Verizon Wireless initially supported the use of transitional, phased-in overlays to provide interim numbering relief until wireless carriers could participate in pooling.⁵ In comments filed earlier in this docket, VZW commended the DPUC for embracing the concept of a transitional “phased-in” service specific overlay (“PIO”).⁶ VZW expressed skepticism, however, of the need and effectiveness of a TSO, given the pendency of pooling, the costs, and the potential adverse competitive effects associated with implementing a TSO. Further, VZW urged the DPUC to provide significantly greater detail regarding the mechanics and need for a TSO at this time.⁷

The DPUC’s supplemental filing does not bolster the factual or legal basis for a TSO. Now that wireless carriers will be pooling in Connecticut in just five short months, and there are sufficient NXX codes to fulfill carrier demand in the interim, a TSO is neither needed nor justified in Connecticut. In any event, the DPUC’s petition is legally defective because it does not address sufficiently two of the FCC’s required showings for granting states authority to implement TSOs, as delineated in the FCC’s *Third*

⁴ See Comments filed February 26, 2002, of Verizon Wireless at 4, Verizon at 2, OnStar at 2, AT&T Wireless Services, Inc. at 3, Cingular Wireless at 2-10, CTIA at 2, WorldCom at 1, Sprint PCS at 1.

⁵ See Letter from Anne E. Hoskins, Verizon Wireless, to Yog R. Varma, Deputy Chief, Common Carrier Bureau, dated November 21, 2000. See Comments of Verizon Wireless, filed February 14, 2001 and Reply Comments of Verizon Wireless, filed March 7, 2001 regarding *Numbering Resource Optimization, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, released December 29, 2000.

⁶ Comments by Verizon Wireless, CC Docket No. 99-200, filed February 26, 2002, at 2-3.

⁷ *Id.*

Numbering Resource Optimization Order.⁸ Specifically, the FCC directed state commissions seeking authority to implement a TSO to address, among other factors: (1) the technologies or services to be included in the SO; and (2) if a transitional SO is proposed, when the SO will become an all-services overlay.⁹ The DPUC's Supplemental Information still fails to adequately address these factors.¹⁰

I. THE DPUC'S REQUEST IS NOT JUSTIFIED BECAUSE WIRELESS CARRIERS WILL BE POOLING-CAPABLE IN NOVEMBER

The DPUC has not provided sufficient basis to justify opening two NPAs, containing almost 16 million assignable numbers to serve a subset of the communications industry in a competitively disparate manner. The proven way to delay exhaust and improve number utilization is through thousands-block number pooling. Pooling is already in effect in both Connecticut NPAs and wireless carriers will begin to participate in pooling in five months.

Wireless carriers have endured NXX rationing for a long time in Connecticut, which artificially constrains the ability of non-pooling capable carriers to receive additional numbering resources. Wireless carriers have expended millions of dollars to become pooling capable – in support of the federal policy to improve number utilization by sharing thousands blocks of numbers broadly across wireless and wireline carriers. Once they achieve pooling capability this November, wireless carriers will be able to utilize thousand blocks that have been “stranded” by LECs and CLECs in Connecticut rate centers. Given that pooling is imminent, the time has long passed when a TSO might have made sense. Forcing wireless carriers to take numbers out of a new NPA and pool

⁸ *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252 (2001).

⁹ *Id.* at ¶ 81.

only amongst each other is completely inconsistent with the objectives of maximizing the efficiency of number utilization and preserving the NANP. Opening up additional NPAs to serve only a subset of the industry would not obviate the ultimate need for a new NPA to serve landline customers who are presently served by the 203 and 860 NPAs.¹¹ It would only put wireless carriers at a competitive disadvantage and cause harm to customers who would then be forced to have different NPAs for their wireless and wireline phones.

The DPUC's request to implement a TSO is also inconsistent with its recognition in the Supplemental Information filing that wireless carriers should benefit from thousands block number pooling.¹² It is unclear from the Supplemental Information whether, after November of this year, Verizon Wireless would gain access to numbers through pooled thousands blocks in the 203 and 860 pools, or whether wireless carriers would be required to seek new numbers through a TSO pool. Pooling entails sharing a 10,000 block of numbers, at the rate center level, among multiple carriers to maximize utilization of the block and avoid stranding resources in carriers' inventories. By contrast, TSOs entail the segregation of a subset of carriers into their own exclusive-use NPA. By definition, groups of carriers relegated to a particular NPA pursuant to a TSO regime do not share numbering resources with carriers in the other NPAs.

Pooling works best when the majority of users of the resource share number blocks without artificial restrictions like a TSO. If a TSO is implemented in Connecticut,

¹⁰ Supplemental Information at 4.

¹¹ 2002 NRUF and NPA Exhaust as of June 5, 2002. The exhaust date for the 203 NPA has been extended from 4Q2001 to 3Q2004, due to decreased demand, reclamation and/or pooling. Likewise the exhaust date for the 860 NPA has been extended from 3Q2001 to 1Q2004 because of decreased demand and pooling.

¹² Supplemental Information at 5.

wireless carriers would likely be required to obtain new numbering resources exclusively from the numbers available for use in the TSO, not from the pool established in the underlying NPAs. If the DPUC's reference to pooling refers to pooling solely among the carriers in the TSO (*i.e.*, wireless carriers and non-geographic services like ATMs), it is inequitable, anticompetitive, and unjustified. Industry specific pools would not provide wireless carriers or the NANP with the maximum benefits of pooling.

II. THE DPUC HAS NOT IDENTIFIED WHICH SERVICES WOULD BE SUBJECT TO THE TSO AND THE IMPACT OF THE TSO ON THE UNDERLYING NPA

The DPUC continues to skirt the FCC's requirement that a TSO petition state exactly which services would be relegated to a TSO. In its third filing on this issue, the DPUC states that its proposed TSO would include "wireless carriers and certain wireline services."¹³ As discussed above, the proposal also is unclear on exactly how wireless carriers would participate. While stating that wireless carriers should gain the benefit of pooling, the petition also indicates, inconsistently, that wireless carriers would be served out of the TSO. Instead, the DPUC wants to punt the issue to future workshops that would identify the applicable services and formulate terms and conditions (including when and how existing non-geographic sensitive based services could be returned to the underlying NPA).¹⁴

The Bureau cannot grant requests for authority that do not meet the standards dictated in the *Third Numbering Resource Optimization Order*, particularly the fundamental question of which services will be included in the TSO. There is no way to evaluate the need for, competitive impact of, or potential efficacy of a TSO without

¹³ Supplemental Information at 3.

¹⁴ Supplemental Information at 4.

knowing exactly which services will be subject to the TSO. If the DPUC needs additional information from the industry, it should hold such workshops and then supplement its filing once again. The FCC's removal of the prohibition against TSOs should not provide a blank check of authority to requesting states; only requests that address and meet the FCC's delineated standards should be entertained.¹⁵

Additionally, the DPUC fails to provide a concrete date for when the TSO would be transitioned to an all-services overlay, linking the transition instead to the exhaust on the underlying NPAs. The DPUC insists that granting a TSO will delay the need to relieve the underlying NPAs. But it has not supported its request with specific facts justifying why Connecticut should be authorized to take almost 16 million numbers from the NANP to serve only a subset of communications carriers and customers, only so it can prevent some unspecified relief to traditional landline customers. The impact to the underlying NPAs is not quantified, nor is the "benefit" that traditional wireline customers would receive from this policy. The proposed TSO would subject wireless customers to a dialing disparity that could affect demand for wireless services.¹⁶

III. THE LIMITED INFORMATION REGARDING PUBLIC SENTIMENT IS NOT PROBATIVE AND DOES NOT OVERRIDE SOUND NANP EXHAUST PREVENTION PRINCIPLES

As justification for its request, the DPUC asserts that the public sentiment of Connecticut residents in hearings held by the DPUC in 1997 constitutes public demand

¹⁵ Sprint has filed a Notice of Appeal with the D.C. Circuit challenging the Commission's decision to lift the ban against TSOs. If the conditions in the *Third Numbering Resource Optimization Order* have any meaning or value, the FCC must deny the DPUC's request.

¹⁶ Given the DPUC's strong advocacy for the need to impose LNP on wireless carriers in order to promote wireless/wireline competition, it is inconsistent for the DPUC to also support an anti-competitive dialing disparity (even if temporary) and segregated numbering resources on the wireless industry. Comments by the Connecticut DPUC, WT Docket No. 01-184, filed September 21, 2001 at 3.

for a TSO.¹⁷ Verizon Wireless disagrees with the DPUC's characterization of the level of support for this proposal, and with the conclusion that it justifies departure from established conservation and relief measures.

Wireless phones are becoming more and more ubiquitous, with industry subscriber levels reaching heights well above penetration levels in 1997. Wireless phones were once viewed much more as a luxury than as the staple of communications. Wireless consumers are, with few exceptions, the very same wireline consumers that the DPUC allegedly seeks to protect by imposing a service or technology specific overlay. Under the DPUC's proposal, customers will likely have different NPAs for their new cell phones than for their existing wireline and cell phones. Given the change in demographics and customer reliance on wireless phones, the DPUC should be required to present evidence of current customer demand for differential treatment of wireless and wireline services before asserting that a TSO is in the public interest. Given that the DPUC has agreed to implement ten-digit dialing, there will be no negative effect on existing wireline customers if the DPUC implements an all-services overlay instead of a TSO. The 1997 evidence, as meager as it is, does not reflect current consumer demand or the public interest.

Even if public sentiment did continue to support a TSO instead of an all-services overlay, the FCC must balance responsible NANP management principles with public sentiment. TSOs are inconsistent with optimal number utilization because they segregate the supply of numbers and undermine the maximum sharing of thousand blocks through

¹⁷ Supplemental Information at 1-2. Upon examination of the record of the DPUC proceeding, between September 18, 1997 and October 21, 1997, the Department conducted six hearings for purposes of receiving comments from the general public. The hearings were attended by 31 consumers, of which 21

pooling. Efficient utilization of the NANP should not be compromised based on the sparse, insufficient record supplied by the DPUC.

IV. IF RELIEF IS NEEDED IN CONNECTICUT, IT SHOULD BE PROVIDED THROUGH AN ALL-SERVICES OVERLAY

The landscape of the telecommunications industry has changed significantly since 1997 when the DPUC held hearings on area code relief options. Number utilization and conservation measures, including pooling and code reclamation have reduced demand for full NXX codes and slowed the rate of area code changes. Market forces have propelled the consolidation or disappearance of some NANP users,¹⁸ yielding the release of a large supply of numbers from carriers that formerly drove demand for NXX codes. In many respects, the numbering crisis has subsided in Connecticut and in other parts of the country,¹⁹ easing the concerns of consumers about unabated growth of area codes. In some jurisdictions, the return of NXX codes has caused state PUCs to suspend area code relief proceedings.²⁰ However, even with conservation methods, area code relief will eventually be required in Connecticut as the demand for communication services continues to grow.

If a new area code is necessary to relieve the 203 or 860 NPAs, it should be imposed on all carriers and customers through the form of an all-services overlay. The

spoke. The DPUC also received four letters from consumers. *See DPUC Review of Management of Telephone Numbering Resources in Connecticut*, Docket No. 96-11-10, Order, at 5 (Feb. 18, 1998).

¹⁸ Verizon Wireless was formed from four predecessor wireless companies in mid-2000: Airtouch, Bell Atlantic Mobile, GTE Wireless, and PrimeCo.

¹⁹ The notable exception is in California where long-delayed relief plans are in urgent need of implementation in the 310 and 909 NPAs.

²⁰ *See In the Matter of the Implementation of the 564 Overlay Area code and Mandatory 10-Digit Dialing in the 206, 253, 360, and 425 NPAs in Western Washington*, Docket No. UT-991535, Order Suspending Implementation of Area Code Relief Plan, Dated August 28, 2001; *See In the Matter of the Petition of Neustar, Inc. on Behalf of the New Mexico Telecommunications Industry, for Approval of NPA Relief Plan for the 505 NPA*, Case No. 3330, Order, Issued, January 8, 2002; *See In the Matter of Area Code Relief for North Carolina's 919 NPA*, Docket No. P-100, SUB 137B, Order Deferring the Implementation Schedule for the 984 NPA, Issued, October 18, 2001.

DPUC has already authorized implementation of two all-services overlays to relieve the 203 and 860 NPAs²¹ and carriers can quickly provision that relief when it is necessary to meet numbering demands. With wireless pooling drawing near, the DPUC should not impose a service-specific area code and a dialing disparity on wireless customers across the state.

V. CONCLUSION

For the reasons explained above, the Commission should deny the DPUC's request for authority to implement a TSO in Connecticut.

Respectfully submitted,

VERIZON WIRELESS

By: John T. Scott, III

John T. Scott, III
Vice President and Deputy General
Counsel - Regulatory Law

Anne E. Hoskins
Regulatory Counsel - Regulatory Law

Lolita D. Smith
Associate Director – Regulatory Law

1300 I. St, N.W., Suite 400 West
Washington, D.C. 20005
(202) 589-3760

Its Attorneys

²¹ See DPUC Review of Management of Telephone Numbering Resources in Connecticut, Docket No. 96-11-10 RE1, *Order*, at 53 (Sept. 22, 1999).

June 14, 2002